



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R07-OAR-2021-0391; FRL-8693-02-R7]**

**Air Plan Approval; Missouri Redesignation Request and Associated Maintenance Plan for the Jefferson County 2010 SO<sub>2</sub> 1-Hour NAAQS Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On December 27, 2017, the State of Missouri submitted a request for the Environmental Protection Agency (EPA) to redesignate the Jefferson County, Missouri, 2010 1-hour sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS) nonattainment area to attainment and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. The State provided supplemental information on: May 15, 2018; February 7, 2019; February 25, 2019; and April 9, 2021. In response to these submittals, the EPA is taking the following final actions: approve the State's plan for maintaining attainment of the 2010 1-hour SO<sub>2</sub> primary standard in the area; and approve the State's request to redesignate the Jefferson County SO<sub>2</sub> nonattainment area to attainment for the 2010 1-hour SO<sub>2</sub> primary standard.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2021-0391. All documents in the

docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Ashley Keas, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7629 or by email at [keas.ashley@epa.gov](mailto:keas.ashley@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to the EPA.

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### **I. What is Being Addressed in this Document?**

On December 27, 2017, the State submitted a request for redesignation of the Jefferson County SO<sub>2</sub> nonattainment area to

attainment and a SIP revision containing a 10-year maintenance plan for the area. On May 15, 2018, the State submitted a clarifying letter that Appendix A (containing the emissions inventory for the area) and Appendix B (containing a Consent Agreement entered between Missouri and Ameren sources in the area) of the SIP submittal should be considered part of the SIP revision request. On February 7, 2019, and February 25, 2019, the State submitted supplemental modeling information to the EPA. On April 9, 2021, the State submitted an addendum to the Consent Agreement which contains the emissions limits and monitoring, reporting, and recordkeeping requirements needed to determine compliance with the emissions limits for the covered sources. The EPA's proposal at 86 FR 34177 [June 29, 2021] discusses the EPA's review of the redesignation request, the maintenance plan (including Consent Agreement and addendum), and the supplemental information and provides support for the EPA's proposed approval of the request to redesignate the area to attainment and for proposed approval of the 10-year maintenance plan. Additional analysis of the redesignation request, 10-year maintenance plan, Consent Agreement and addendum, and supplemental modeling information is provided in a Technical Support Document (TSD) included in this docket. The public comment period on the EPA's proposed rule opened on June 29, 2021, the date of its publication in the *Federal Register*, and closed on July 29, 2021. During this period, the EPA received one comment. The EPA additionally received a request to extend

the comment period due to the technical support document being added to the docket partway through the comment period.

Therefore, the EPA reopened the comment period on August 17, 2021, and closed on September 16, 2021 (86 FR 45950). During this second comment period, the EPA received one additional comment. Both comments are addressed in section II.

## **II. The EPA's Responses to Comments.**

*Comment 1:* On July 29, 2021, the EPA received a comment from Ameren Missouri. The comment was largely supportive of the EPA's proposed redesignation of the Jefferson County area. Ameren also identified minor clarifications and corrections needed in the TSD. Specifically, Ameren noted that the TSD incorrectly stated that meteorological data was from the Weaver monitor when in fact the Weaver monitor does not collect meteorological data.

*Response 1:* The EPA updated this reference to the Johnson Tall Tower, the source of the meteorological data underlying the pollution rose on page 28 of the revised TSD, included in the docket for this action.

*Comment 2:* On September 16, 2021, the EPA received one comment from the Missouri Department of Natural Resources. The comment requested the EPA clarify statements in the proposed rule regarding the need for a SIP revision to remove monitoring requirements for the industrial monitoring sites located around Rush Island. Missouri references Appendix 1 to the Consent Agreement, *Additional QAPP Components*, which includes the

process for discontinuing any of the monitors around Rush Island, and states that the EPA's approval of this Quality Assurance Project Plan (QAPP) into the SIP renders a SIP revision unnecessary to discontinue the operation of a monitor. Missouri requests that the EPA clarify that the monitors may be discontinued per the requirements of the Consent Agreement without the need for a SIP revision.

*Response 2:* The EPA agrees with Missouri that the Appendix to the Consent Agreement contains a QAPP that outlines criteria that must be met in order for Ameren to request discontinuation of a monitor in the SO<sub>2</sub> Monitoring Network.<sup>1</sup> Specifically, the Consent Agreement and QAPP outline criteria to be submitted by Ameren to Missouri in order to request monitor discontinuation. The EPA agrees that our approval of the Consent Agreement and QAPP into Missouri's SIP does allow Missouri to follow the process outlined in the Consent Agreement and QAPP for discontinuation of a monitor in Ameren's SO<sub>2</sub> Monitoring Network. To clarify the EPA's position as stated in the proposed rule, if a monitor in the SO<sub>2</sub> Monitoring Network is removed, a SIP revision would be triggered to update certain aspects of the maintenance plan that relied upon the operation of the monitor.

Specifically, Missouri would need to update the contingency plan triggers as relied upon in the maintenance plan and Consent Agreement. Additionally, and as discussed further below,

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<sup>1</sup> While the term "SO<sub>2</sub> Monitoring Network" is not defined in the Consent Agreement, the maintenance plan identifies the "SO<sub>2</sub> Monitoring Network" to include the following monitors operated by Ameren: Weaver Road & Highway AA, Natchez, and Fults.

Missouri must still be able to demonstrate that they meet the requirements for an appropriate monitoring network in the area and an appropriate method for verifying continued attainment throughout the maintenance area for the duration of the maintenance period.

#### *Contingency Measures*

The Consent Agreement that the EPA is approving into the SIP requires Ameren to install and operate an SO<sub>2</sub> Monitoring Network at locations representative of the impacts of Rush Island's emissions and includes specific requirements to be undertaken by Ameren should a monitor within the SO<sub>2</sub> Monitoring Network record an elevated concentration. As the EPA explained in the proposed rule, the EPA interprets these requirements to be contingency measures for purposes of Clean Air Act (CAA) section 175A.

Additionally, the maintenance plan includes contingency plan triggers and requirements applicable to entities responsible for elevated values recorded in the Jefferson County maintenance area. This includes the Mott Street Monitor as well as the Weaver Monitor located within the maintenance area near Rush Island.

#### *Monitoring Network Commitment and Verification of Continued Attainment*

In addition, Missouri commits in the maintenance plan to continued operation of the "appropriate SO<sub>2</sub> network" in the Jefferson County maintenance area and describes how the SO<sub>2</sub>

monitoring network was expanded in accordance with the Consent Agreement to include the Weaver Road & Highway AA, Natchez, and Fults monitors. The maintenance plan states that the SO<sub>2</sub> monitoring network is reviewed annually through the Annual Network Monitoring Plan pursuant 40 CFR part 58, and any discontinuation or relocation of the monitors would require review and approval by the EPA.

The EPA agrees with Missouri that any proposed network modification of State or Local Area Monitoring Stations (SLAMS) is subject to the approval of the EPA Regional Administrator. For SLAMS that operate in a maintenance area, 40 CFR 58.14(c) (1) states that, "... if the most recent attainment or maintenance plan adopted by the State and approved by EPA contains a contingency measure to be triggered by an air quality concentration and the monitor to be discontinued is the only SLAMS monitor operating in the nonattainment or maintenance area, the monitor may not be discontinued." This provision would apply to the Mott Street monitor, as it is the only SO<sub>2</sub> SLAMS operating within the Jefferson County area.

The industrial source monitors operated by Ameren are not required to meet the discontinuation criteria or process outlined for SLAMS monitors in 40 CFR part 58. However, these monitors characterize the air quality around the largest remaining source in the area, Rush Island, and certain concentration levels recorded by these monitors trigger contingency provisions per the maintenance plan and Consent

Agreement. If Ameren were to request discontinuation of these industrial source monitors, the Consent Agreement would allow Missouri to approve such request without approval from the EPA. However, discontinuation of a monitor would impact the state's ability to meet the requirement for verification of continued attainment and Missouri's commitment to operating an appropriate monitoring network in the area, thereby materially changing Missouri's maintenance plan and the basis for the EPA's approval of Missouri's maintenance plan.

The EPA therefore disagrees with the commenter concerning whether a SIP revision is necessary if a monitor is discontinued pursuant to the terms of the Consent Agreement and finds that if a monitor is discontinued in the area, Missouri would need to revise the federally approved maintenance plan and include a justification for removal of the monitor in order to meet the requirements of section 110(1) of the CAA. The EPA expects that removal of a monitor would require a demonstration that the contingency provisions are adequately triggered in the absence of the monitor. In addition, Missouri must demonstrate that an appropriate SO<sub>2</sub> monitoring network remains in place in the maintenance area and that the maintenance plan still meets the requirement for verification of continued attainment under section 175A.

### **III. Have the Requirements for Approval of a SIP Revision Been Met?**



The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on the December 2017 SIP submittal from July 31, 2017, to September 7, 2017 and held a public hearing on August 31, 2017. The State received and addressed nineteen combined comments from a total of five sources. The State revised the maintenance plan based on public comment prior to submitting to the EPA.

On April 9, 2021, Missouri submitted a supplement to the SIP revision to the EPA consisting of an addendum to the Consent Agreement between Ameren and Missouri. The Consent Agreement addendum incorporates monitoring, reporting and recordkeeping requirements needed to make the emissions limits contained in the Consent Agreement practically enforceable. Missouri held a public hearing for this SIP supplement on January 28, 2021, and made the supplement available for public review and comment from December 28, 2020, through February 4, 2021. Missouri received supportive comments from Ameren.

In addition, as explained in the EPA's proposed rule (and in more detail in the technical support document which is included in the docket for this action), the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

#### **IV. What are the Actions the EPA is Taking?**

The EPA is taking final action to approve the maintenance plan for the Jefferson County 2010 SO<sub>2</sub> 1-hour NAAQS nonattainment area into the Missouri SIP (as compliant with CAA section 175A). The maintenance plan demonstrates that the area will continue to maintain the 2010 1-hour SO<sub>2</sub> NAAQS and includes contingency provisions to remedy any future violations of the 2010 1-hour SO<sub>2</sub> NAAQS and procedures for evaluation of potential violations.

Additionally, the EPA is taking final action to determine that the Jefferson County 2010 SO<sub>2</sub> 1-hour NAAQS nonattainment area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2010 1-hour SO<sub>2</sub> NAAQS. On this basis, the EPA is approving Missouri's redesignation request for the area and changing the legal designation of the portion of Jefferson County designated nonattainment at 40 CFR part 81 to attainment for the 2010 1-hour SO<sub>2</sub> NAAQS.

## **V. Environmental Justice Concerns.**

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. If an area is designated nonattainment of the NAAQS, the CAA provides for the EPA to redesignate the area to attainment upon a demonstration by the state authority that air quality is attaining the NAAQS and will continue to maintain the NAAQS in

order to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

The EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within the area. The tool outputs are contained in the docket for this action. While the EPA's EJSCREEN tool demonstrates that demographic indicators are consistent or lower than national averages, there are vulnerable populations in the area including low-income populations and persons over 64 years of age.

This action addresses a redesignation determination for the Jefferson County, Missouri area. Under CAA section 107(d)(3), the redesignation of an area to attainment is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. As discussed in this document and the associated technical support document, Missouri has demonstrated that the air quality in the Jefferson County area is attaining the NAAQS and will continue to maintain the NAAQS. For these reasons, this action does not result in disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples.

## **VI. Incorporation by Reference.**

In this document the EPA is amending regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing incorporation

by reference of the Missouri State Implementation Plan described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## **VII. Statutory and Executive Order Reviews.**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

- This action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The basis for this determination is contained in Section V of this action, "Environmental Justice Concerns."

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is

published in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### **List of Subjects**

##### *40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Maintenance plan, Redesignation, Sulfur oxides.

##### *40 CFR Part 81*

Environmental protection, Air pollution control, Designations, Intergovernmental relations, Redesignation, Reporting and recordkeeping requirements, Sulfur oxides.

**Dated:** January 14, 2022.

**Meghan A. McCollister,**  
*Regional Administrator,*  
*Region 7.*

For the reasons stated in the preamble, EPA amends 40 CFR parts 52 and 81 as set forth below:

**PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA-Missouri**

2. In §52.1320:

a. The table in paragraph (d) is amended by adding the entry “(34)” in numerical order.

b. The table in paragraph (e) is amended by adding the entry “(81)” in numerical order.

The additions read as follows:

**§52.1320 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA-APPROVED MISSOURI SOURCE-SPECIFIC PERMITS AND ORDERS**



Name of source	Order/Permit number	State effective date	EPA Approval date	Explanation
* * * * *				
(34) Ameren Missouri	Consent Agreement and Addendum No. APCP-2015-034	12/14/2020	[insert date of publication in the Federal Register], [insert Federal Register citation]	

(e) \* \* \*

#### EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(81) Jefferson County 1-hour SO <sub>2</sub> NAAQS Maintenance Plan and Supplemental Modeling Analyses	Jefferson County	12/27/17; 5/15/18; 2/7/19; 2/25/19; and 4/9/21	[insert date of publication in the Federal Register], [insert Federal Register citation]	This action approves the Maintenance Plan and the Supplemental Modeling Analyses for the Jefferson County area.

3. In §52.1343, add paragraph (c) to read as follows:

**§52.1343 Control strategy: Sulfur dioxide.**

\* \* \* \* \*

(c) *Redesignation to attainment.* As of [insert date 30 days after date of publication in the Federal Register], the

Jefferson County 2010 SO<sub>2</sub> nonattainment area is redesignated to

attainment of the 2010 SO<sub>2</sub> 1-hour National Ambient Air Quality Standard (NAAQS) in accordance with the requirements of Clean Air Act (CAA) section 107(d)(3) and EPA has approved its maintenance plan and supplemental modeling demonstration analyses as meeting the requirements of CAA section 175A.

**PART 81-DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

4. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

**Subpart C-Section 107 Attainment Status Designations**

5. In §81.326, revise the entry "Jefferson County, MO" in the table entitled "Missouri-2010 Sulfur Dioxide NAAQS [Primary]" to read as follows:

**§81.326 Missouri.**

\* \* \* \* \*

**Missouri-2010 Sulfur Dioxide NAAQS**  
[Primary]

Designated area <sup>1</sup>	Designation	
	Date <sup>2</sup>	Type
* * *	* *	* *
Jefferson County, MO	[insert date 30 days after date of publication in the Federal Register]	Attainment.

Jefferson County (part)		
That portion within Jefferson County described by connecting the following four sets of UTM coordinates moving in a clockwise manner:		
(Herculaneum USGS Quadrangle) 718360.283 4250477.056 729301.869 4250718.415 729704.134 4236840.30 718762.547 4236558.715		
(Festus USGS Quadrangle) 718762.547 4236558.715 729704.134 4236840.30 730066.171 4223042.637 719124.585 4222680.6		
(Selma USGS Quadrangle) 729704.134 4236840.30 730428.209 4236840.3 741047.984 4223283.996 730066.171 4223042.637		
(Valmeyer USGS Quadrangle) 729301.869 4250718.415 731474.096 4250798.868 730428.209 4236840.3 729704.134 4236840.30		
* * *	* *	* *

<sup>1</sup>Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

<sup>2</sup>This date is April 9, 2018, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 2022-01645 Filed: 1/27/2022 8:45 am; Publication Date: 1/28/2022]